

EXHIBIT 6

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(U) MEMORANDUM FOR: RICHARD NEWCOMB
DIRECTOR
OFFICE OF FOREIGN ASSETS CONTROL

(U) THROUGH: Mark D. Roberts
Chief, Foreign Terrorist Programs Division

(U) FROM: Foreign Terrorist Officer

(U) SUBJECT: Designation Pursuant to E.O. 13224

(U) Yasin AL-QADI
(U) a.k.a. Yasin Kadi
(U) a.k.a. Yasin Kahdi
(U) a.k.a. Shaykh Yassin Abdullah Kadi

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(U) POB: Cairo, Egypt
(U) DOB: February 23, 1955

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(U) Current Address: Jeddah, Saudi Arabia

(U) INTRODUCTION:

(U) President Bush issued Executive Order 13224 (September 23, 2001) ("E.O. 13224" or "the E.O."), declaring a national emergency to address grave acts of terrorism and threats of terrorism committed by foreign terrorists, including the September 11, 2001, terrorist attacks in New York, Pennsylvania, and at the Pentagon. E.O. 13224 authorizes the Secretary of the Treasury, in consultation with the Secretaries of State and Homeland Security and the Attorney General, to designate those persons determined to be:

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- owned or controlled by, or to be acting for or on behalf of those persons listed in the Annex to the E.O., or those determined to be subject to subsection 1(b), 1(c) or 1(d)(i) of the E.O.;
- assisting in, sponsoring, or providing financial, material, or technological support for, or financial or other services to or in support of, such acts of terrorism or those persons listed in the Annex to E.O. 13224 or determined to be subject to the E.O.; or
- associated with those persons listed in the Annex, or those persons determined to be subject to subsection 1(b), 1(c), or 1(d)(i) of the E.O.

(U) The following is a summary of the evidence in the files of the Office of Foreign Assets Control which supports a determination that Yassin AL-QADI [AL-QADI] satisfies the standards for designation under Executive Order 13224 "Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism," and is subject to its provisions and prohibitions.

(U) OFAC has reviewed evidence from many sources involving numerous activities taking place over a significant length of time. OFAC finds that this evidence is credible, particularly when taken as a whole. The evidence includes both publicly available material and classified evidence that is not appropriately releasable to the public for several reasons, including preventing harm to the national security of the United States. The evidence clearly supports the determination that AL-QADI is subject to Executive Order 13224.

(U) Summary

(U) ~~b1~~ AL-QADI, a Saudi businessman whose companies span the Middle East, Europe, North America and South Asia, has been consistently identified as a financial supporter of Usama bin Laden and other known Islamic extremists for nearly a decade. This identification has been made by ~~b1, b7D~~ as well as by open source press reports, spanning AL-QADI's associations with businesses, charities and direct relations with individuals aligned with terrorism. It is also supported by federal money-laundering investigations.

(U) AL-QADI was initially designated as subject to E.O. 13224 on October 12, 2001. He is also on the United Nations' Consolidated List of All Entities/Individuals Whose Accounts Should be Frozen in Accordance with the United Nations Security Council Resolutions Relating to Afghanistan (Taliban & Usama Bin Laden) or Terrorism, pursuant to paragraph 8(C) of Resolution 1333. The European Union has also frozen his assets, pursuant to Council Regulation (EC) No. 467/2001 "imposing certain specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban." He now seeks reconsideration of his designation under E.O. 13224.

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(S) ~~b1~~ AL-QADI established the Muwafaq Foundation ("Muwafaq" or "the Foundation") in 1992. Though established as a charitable organization, Muwafaq, according to information available to the U.S. government, ~~b1~~

~~b1~~ in ~~b1~~ According to information available to the U.S. government, ~~b1~~

~~b1~~ both designated as Specially Designated Global Terrorists (SDGTs) on September 23, 2001, pursuant to Executive Order 13224.

(S) ~~b1~~ Chafiq Ayadi and Wa'el Hamza A. Julaidan, both designated SDGTs, by AL-QADI's own admissions worked closely with him, and received direct and indirect funding from him. ~~b1~~

~~b1~~ designated an SDGT pursuant to E.O. 13224. Further, he has admitted to directly providing funds in 1992 and 1993 to Muhammad Salah, a high-level HAMAS operative and a Specially Designated Terrorist ("SDT") under Executive Order 12947, "Prohibiting Transactions with Terrorists Who Threaten To Disrupt the Middle East Peace Process," signed in 1995.

(U) Though Muwafaq was a charitable foundation, and AL-QADI in his submissions to OFAC has provided evidence that it was involved in substantial charitable activities, this by no means undermines the determination that the charity was, in addition, used to fund terrorism. The use of an ostensible charitable foundation is a frequently used mechanism for covertly supporting terrorism. [See e.g. Exhibit YYY, at p. 6.]

(U) PREVIOUS DESIGNATION BASIS

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(U) Following the designation of **AL-QADI**, on or about October 11, 2001, the Department of Treasury, in response to a request by the United Kingdom for additional information on **AL-QADI**, faxed a two-page document to governmental officials in the United Kingdom. [Exhibit AAA.] The two-page fax included reference only to certain unclassified material. While many of the submissions of **AL-QADI** in support of his petition to de-list make reference to the two-page fax as containing the sole or primary basis for the support of the designation under E.O. 13224, this interpretation of the fax is incorrect. The original designation and maintenance of **AL-QADI** was based upon both classified and unclassified material. Further, **AL-QADI** asserts in his submissions that some of the information in the two-page fax is incorrect, such as the fact that he does not have a brother. We accept that **AL-QADI** does not have a brother. As noted, however, **AL-QADI**'s designation is based on both classified and unclassified information beyond the information contained in the two-page fax.

(U) PROCEDURAL HISTORY

(U) **AL-QADI** has requested reconsideration of the October 12, 2001 designation of him under E.O. 13224. In support of his petition to be delisted, he has presented the following material: Witness Statement of Yassin Abdullah Kadi, dated 17 December 2001 ("12-17-2001 WS"); Supplemental Witness Statement of Yassin Abdullah Kadi, dated 23 July 2002 ("7-23-2002 WS"); Yassin Abdullah Kadi Summary Presentation for OFAC, August 1, 2002 ("8-1-2002 Meeting"); Statement of Yassin Abdullah Kadi, dated December 19, 2002 ("12-19-2002 WS"); Presentation for February 28th Meeting with OFAC, dated February 28, 2003 ("2-28-2003 Meeting"); Answers to Questions Concerning the Petition to Delist Yassin Abdullah Kadi, dated July 11, 2003 ("7-11-2003 Answers"); and the Submission of Yassin Abdullah Kadi to the Deputy Attorney General of Switzerland, Mr. Claude Nicati, Further to the Meeting at the Swiss Embassy in Riyadh on 1 July 2003, dated August 22, 2003 ("8-22-2003 WS").

(U) OFAC has now reviewed **AL-QADI**'s submissions including the documents and exhibits submitted in support of the witness statements and other submissions. Based on the evidence set forth below, including the admissions and explanations and defenses of **AL-QADI** as well as the classified evidence, there continues to be a reasonable basis to maintain the designation based upon the full record contained in OFAC's files.

(U) AL-QADI'S LINKS TO TERRORISTS, EXTREMISTS, AND TERRORISM-RELATED ACTIVITIES

(U) **AL-QADI** declares in multiple places in his submissions to OFAC, that he and his legal team have examined many documents and have interviewed a number of witnesses including former employees of Muwafaq and "have found no evidence whatsoever that any transaction benefited Osama bin Laden, Al Qaeda, or any other terrorist activity or group." **AL-QADI** claims throughout his submissions that "to the best of [his] knowledge the Foundation never provided money to any terrorist individuals or organizations, whether or not designated under E.O. 13224." **AL-QADI** asserts, "I have

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never provided support for terrorism, financial or otherwise, and I am personally strongly opposed to terrorist activity in all forms.”¹

(S) ~~b1~~ However, there is substantial evidence before OFAC that Muwafaq, an entity founded, supervised and ultimately controlled by AL-QADI

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(U) AL-QADI has, however, admitted that he provided money directly to Muhammad Salah, a Specially Designated Terrorist (“SDT”) under E.O. 12947, and Specially Designated Global Terrorist (“SDGT”) under E.O. 13224, who has admitted his ties to SDGT HAMAS as an operative and recruiter specifically for the military wing of HAMAS. AL-QADI also admits that he gave shares in KA Stan to SDGT Wa’el Julaidan as a “reward” for his charitable work. Moreover, as outlined below, the totality of the evidence demonstrates AL-QADI’s links to terrorists, extremists, and terrorism-related activities.

(U) AL-QADI and the Muwafaq Foundation

(U) Muwafaq was founded as a charitable trust in Jersey, Channel Islands on May 31, 1992.² According to the submissions of AL-QADI, the Board of Trustees, consisted of six individuals: AL-QADI, Abdul Rahman bin Mahfouz, Raïs bin Mahfouz, Talal Badkook, Dr. Mohamed Ali El-Gari Bin Eid, Abdul Gani Al-Khariji.³ “Legally, of course, the board of trustees was responsible for the supervision of the Foundation. The trustees were all busy businessmen and they delegated to Mr. Kadi the running and operation of the Foundation. *In practice, therefore, Mr. Kadi was the driving force behind the administration of the Foundation.* (Emphasis added.)”⁴ AL-QADI states that he selected the managers responsible for the various countries, and that he then delegated his authority to the various country managers; who in turn took day-to-day responsibility for running Muwafaq.⁵

(U) Regarding the provision of funds which were used to establish and maintain operations of the local offices, AL-QADI states that he would help raise money for the activities of the local offices, and that he would visit each active project country about three to four times a year.⁶ “I was involved in strategic decisions concerning the

¹ 12-19-2002 WS, p.35; 7-11-2003 Answers, p. 12; 12-17-2001 WS, p. 2; 2-28-2003 Meeting, p. 5.

² 7-11-2003 Answers, p.1.

³ 12-19-2002 WS, p.12.

⁴ 7-11-2003 Answers, p.1-2.

⁵ 7-11-2003 Answers, p.2.

⁶ 7-11-2003 Answers, p.2.

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Foundation -- decisions on how best to apply the Foundation's funds consistent with its charitable objects and purposes."⁷

(U) Regarding the maintenance of records and audits for the units, **AL-QADI** states that there was little auditing actually performed, and that in several of the countries in which Muwafaq operated, there are "no meaningful financial records available."⁸ Even in countries where there was a requirement that audits be filed, e.g. Pakistan, **AL-QADI** can not confirm that the results of the audits were filed as required.⁹

(U) On the whole, **AL-QADI** states that "as a general rule the activities engaged in by the Foundation were the support of local humanitarian activities, including providing housing, food, medicine, and shelter to persons in need."¹⁰ Furthermore he maintains that it is "totally untrue that 'Muwafaq is an al-Qaeda front that receives funding from wealthy Saudi businessmen.' Muwafaq has never had any connection to al-Qaeda or to any other terrorist individual, group or organization whatsoever."¹¹ Regarding its legitimacy, **AL-QADI** asserts that Muwafaq was accepted and recognized by both local regulatory bodies and international funding bodies.¹²

(U) Explaining **AL-QADI**'s simultaneous involvement in both business and charitable activities in the same countries, **AL-QADI** writes that, "It will be seen that in some cases I have conducted in parallel both charitable and commercial activities in those countries. The reason for this is that war-torn countries are often emerging markets that can offer good investment returns for outside foreign investors albeit at relatively high risk."¹³

(U) According to **AL-QADI**'s submissions, Sudan was the first country in which Muwafaq was active. Muwafaq subsequently operated in Pakistan, Afghanistan, Ethiopia, Somalia, Bosnia/Herzegovina, Albania, Austria, and Germany.¹⁴

(S) ~~b1~~ Of these seven offices/operations:

- 1) Sudan: Closed by Kadi following publication of *Africa Confidential* article linking Muwafaq to 1995 attempt on President Mubarak, and ceased operations in 1996 at about the same time that Bin Ladin left Sudan. Additionally **AL-QADI** is quoted as saying the office provided assistance to "jihad activities."
- 2) Pakistan: Headed by Amir Mehdi, ~~b1~~
The Pakistan government on March 21, 1995, raided the office and Mehdi was arrested on May 29, 1995. The office shut shortly thereafter.
- 3) Ethiopia: Closed in 1995 by the Ethiopian government subsequent to the *Africa Confidential* report.

⁷ 12-19-2002 WS, p. 14.

⁸ 7-11-2003 Answers, p. 3.

⁹ 7-11-2003 Answers, p. 7.

¹⁰ 7-11-2003 Answers, p. 13.

¹¹ 12-17-2001 WS, p. 4-5.

¹² 2-28-2003 Meeting, p.3.

¹³ 12-19-2002 WS, p. 9.

¹⁴ 12-19-2002 WS, p. 14.

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- 4) Europe: Headed by Chafiq Ayadi, who is designated as an SDGT, and was a leader of the radical Tunisian Islamic Front.
- 5) Albania: Office was headed by Dr. Abdul Latif Saleh who founded the Albanian Islamic Jihad, and who was deported from Albania in 1999 for his links to terrorism.

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(U) The Findings Based Upon Information Available to the U.S. Government

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(U) Muwafaq's European Offices

(U) AL-QADI hired Chafiq Ayadi, an SDGT designated at the same time as AL-QADI on October 12, 2001, to head Muwafaq's European operations upon the recommendation of Wa'el Julaidan in late 1992.¹⁵

¹⁵ (U) 12-19-2002 WS, "Muwafaq, an Arabic word which means, in essence, 'Blessed Success' or 'Holy Success'.... The Foundation was founded as a charitable trust in Jersey by means of a Constitution and Declaration of Trust dated May 31, 1992." Paras. 24, 25. This statement further notes that the six trustees of the Foundation Abdul Rahman bin Mahfouz, the son of Khalid Bin Mahfouz, and Rais bin Mahfouz were appointed and nominated by Bin Mahfouz. Talal Badkook, Dr. Mohamed Ali El-Gari Bin-Eid, and Abdul Gani Al-Kharji, were nominated by AL-QADI. AL-QADI also was a trustee.

¹⁶ 12-19-2002 WS, p. 35.

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(U) Wa'el Hamza Julaidan, a Saudi citizen, is an associate of Usama bin Ladin. Julaidan fought with bin Ladin in Afghanistan in the 1980s. Julaidan is also associated with several individuals and entities linked to al Qaida, including bin Ladin lieutenants Ayman al-Zawahiri, Abu Zubaida, and Mohammed Atef. Al-Zawahiri, Zubaida and Atef were all designated SDGTs on September 23, 2001. Additionally, he is associated with the SDGT organizations Makhtab al Khidamat, the Rabita Trust, and al-Gam'a al-Islamiya. [Exhibit ZZZ, Exhibit XXX]

(U) Bin Ladin himself acknowledged his close ties to Julaidan during a 1999 interview with Al-Jazeera TV. When referring to the assassination of al Qaida co-founder Abdullah Azzam, bin Ladin stated that "We were all in one boat, as is known to you, including our brother, Wa'el Julaidan." Julaidan has established contacts with several known Arab Islamic extremists, including bin Ladin's principal lieutenant, SDGT Ayman al-Zawahiri. Another bin Ladin lieutenant, SDGT Abu Zubaida, claimed that he accompanied Julaidan from Pakistan to Kandahar, Afghanistan, during the summer of 2000. Zubaida said that Julaidan met with bin Ladin and senior bin Ladin lieutenant SDGT Mohammed Atef soon after arriving in Kandahar. Julaidan was jointly designated on September 6, by the United States and Saudi Arabia for his terrorist ties. [Exhibit ZZZ, Exhibit AAAA]

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(U) AL-QADI had known Julaidan as a family friend since the 1980s, and states in his submissions to OFAC, "[Julaidan] is well known for his humanitarian relief work for the Afghan refugees during the Soviet occupation of Afghanistan in the 1980s. In 1992 Waa'el Julaidan helped Mr. Kadi to establish an advanced teachers' college in Zagreb to educate women refugees to become teachers. He recommended Chafiq Ayadi to Mr. Kadi as a suitable person to manage this college. The recommendation was on the basis of Chafiq Ayadi's integrity and experience in the humanitarian field. It had nothing whatever to do with, and there was absolutely no discussion concerning or any involvement with any terrorist purpose."¹⁷ AL-QADI states elsewhere that, "at that time, in 1992, AL-

¹⁷ 2-28-2003 Meeting, p. 7; 12-19-2002 WS, p.54.

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QADI had no reason or indication to suspect either Waa'el Julaidan or Chafiq Ayadi of supporting any terrorist or extremist causes."¹⁸

(U) However, **AL-QADI**'s submissions regarding Julaidan raise significant questions. Despite the above information regarding Julaidan, **AL-QADI** says that it is his firm belief that Julaidan maintained no continuing association with Usama bin Laden after 1994,¹⁹ and that he asked Julaidan on "several occasions" about any ongoing relationship with Usama Bin Laden.

(U) Ayadi was employed as director in charge of Muwafaq's European activities from 1992 to 1995 or 1996, and during that time **AL-QADI** transferred substantial sums to Ayadi's personal account. **AL-QADI** states that these transfers were for the sole purpose of the charitable objectives of Muwafaq. He further states that the standing instructions to all of Muwafaq's employees were that they were strictly to adhere to the laws and regulations of all countries where Muwafaq worked and not to engage Muwafaq in any activities outside the strict charitable purposes laid down in Muwafaq's Constitution and Declaration of Trust.²⁰

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¹⁸ 7-11-2003 Answers, p. 18-19; 12-19-2002 WS, p.34.

¹⁹ 7-11-2003 Answers, p. 23.

²⁰ 12-17-2001 WS, p.6-7; 7-11-2003 Answers, p. 20.

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b7D [REDACTED] Ayadi went to Bosnia-Herzegovina during the war where he acted for Ennahdha under the cover of a humanitarian organization. He used funds to buy weapons and false documents for terrorist activities. b7D [REDACTED]

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(U) According to his submissions, **AL-QADI** claims that he has never heard of the Tunisian Islamic Front.²²

(U) **AL-QADI** claims that none of his transactions with Ayadi were directly or indirectly for the purpose of aiding terrorism.²³ **AL-QADI** asserts that he was not aware of any allegations linking Chafiq Ayadi to terrorism or support for terrorism until Mr. Ayadi was designated by OFAC in October 2001: "Indeed, until Chafiq Ayadi's designation by OFAC nothing in Mr. **AL-QADI**'s relationship with Chafiq Ayadi indicated that Chafiq Ayadi was in any way involved with terrorist or extremist causes. **AL-QADI** says that he is not aware of any allegation of Ayadi's involvement with, support for, or association with any terrorist or extremist entities or operations."²⁴

(U) **AL-QADI** declares he never transferred any funds to Chafiq Ayadi or anybody else for the purpose of supporting Osama Bin Laden, Al-Qaeda or any other terrorist group or activity. "Nor have we seen any evidence that any funds he did transfer to Chafiq Ayadi have actually been used for any such purposes."²⁵

(U) **AL-QADI** asserts that he had no knowledge whatever that Muwafaq or any of its employees or personnel or any of its funds were ever used to provide financial support for any people or entity involved directly or indirectly with combat of any kind or at any location. **AL-QADI** also asserts that "had the Foundation been involved in providing financial support for combatants it would not have been allowed to work with [the WHO, UN, etc.]"²⁶ He further asserts that to the best of his knowledge, Muwafaq was never involved in the transportation of any members of any political party that was involved in advocating or pursuing the violent overthrow of any governments.²⁷

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²² 7-11-2003 Answers, p. 27.

²³ 7-11-2003 Answers, p. 12-13.

²⁴ 7-11-2003 Answers, p. 23; OFAC Meeting Doc. p. 6.

²⁵ 2-28-2003 Meeting, p. 15.

²⁶ 7-11-2003 Answers, p. 9.

²⁷ 7-11-2003 Answers, p. 9-10.

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indicated that Ayadi is recorded in their country on suspicion of collecting funds for the Afghan regime and the Taliban fighters

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